

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In December 2004, plaintiff presented the instant civil rights action to the Court for filing. Plaintiff's complaint was filed on January 24, 2005, and the Court directed service of the complaint on the two named defendants. On October 11, 2005, plaintiff filed a motion to amend his complaint in which he sought leave of court to add seven new defendants to this action. On November 2, 2005, this Court issued an Order granting plaintiff's motion to amend with respect to two of the proposed new defendants, but denying the motion with respect to the remaining five proposed new defendants.

On November 9, 2005, plaintiff re-filed his earlier motion to amend together with a declaration in which he requests leave of court to serve a copy of his amended complaint on

ORDER GRANTING PLAINTIFF LEAVE  
TO SUBMIT A PROPOSED SECOND  
AMENDED COMPLAINT - 1

1 Jimmie Evans, one of the individuals whom plaintiff identified as a proposed new defendant in his  
2 amended complaint, but against whom plaintiff failed to adequately allege a cause of action.  
3 Defendants oppose plaintiff's renewed motion to amend on the grounds that (1) plaintiff knew, or  
4 should have known, of the role Jimmie Evans played in the events giving rise to this action at the  
5 time he filed his amended complaint in October 2005; and, (2) this Court has already denied  
6 plaintiff's request to add Jimmie Evans as a defendant in this action.

7 In its Order granting in part and denying in part plaintiff's prior motion to amend, the Court  
8 noted that while plaintiff had identified Jimmie Evans as a defendant in his amended complaint, he  
9 had alleged no specific facts supporting any constitutional claim against this defendant. In his  
10 declaration in support of his renewed motion to amend, plaintiff offers additional facts which  
11 suggest that Jimmie Evans may be an appropriate defendant in this action. However, plaintiff may  
12 only pursue a claim against Jimmie Evans if he presents a proper pleading which adequately  
13 alleges a cause of action against this individual. To date, plaintiff has presented no such pleading.  
14 However, the Court deems it appropriate to give plaintiff an opportunity to do so before ruling on  
15 his renewed motion to amend.

16 Accordingly, the Court does hereby ORDER as follows:

17 (1) Plaintiff may file a proposed second amended complaint not later than **December**  
18 **23, 2005**, setting forth his claims against Jimmie Evans. Plaintiff is advised that an amended  
19 pleading operates as a *complete* substitute for an original pleading. *See Ferdik v. Bonzelet*, 963  
20 F.2d 1258, 1262 (9th Cir.) (citing *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d  
21 1542, 1546 (9th Cir. 1990) (as amended), *cert. denied*, 506 U.S. 915 (1992). Thus, if plaintiff  
22 chooses to file a second amended complaint, plaintiff must set forth in that complaint not only his  
23 claims against Jimmie Evans, but also his claims against defendants Leslie Ryder, John Richards,  
24 Pat Glebe, and Hearing Officer Alstad.

25 ORDER GRANTING PLAINTIFF LEAVE  
26 TO SUBMIT A PROPOSED SECOND  
AMENDED COMPLAINT - 2

1 Plaintiff is reminded that, in order to adequately allege a cause of action against the named  
2 defendants, he must allege facts showing how each individual caused or personally participated in  
3 causing the harm alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9<sup>th</sup> Cir.  
4 1981). Plaintiff must also identify the federal constitutional right he believes was violated by the  
5 conduct of each named defendant.

6 (2) Plaintiff's renewed motion to amend his complaint (Dkt. No. 62) is RE-NOTED  
7 for consideration on ***December 30, 2005***. Should plaintiff fail to timely present a proposed  
8 second amended complaint to this Court for review, plaintiff's renewed motion to amend will be  
9 denied.

10 (3) The pretrial deadlines set forth in this Court's August 29, 2005, Order Regarding  
11 Pretrial Preparations (Dkt. No. 67) are STRICKEN. The Court will re-set those dates once it has  
12 ruled on plaintiff's renewed motion to amend.

13 (4) The Clerk is directed to send copies of this Order to plaintiff, to counsel for  
14 defendants, and to the Honorable John C. Coughenour.

15 DATED this 6th day of December, 2005.

16   
17 JAMES P. DONOHUE  
18 United States Magistrate Judge  
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25 ORDER GRANTING PLAINTIFF LEAVE  
26 TO SUBMIT A PROPOSED SECOND  
AMENDED COMPLAINT - 3